

Before the  
Federal Communications Commission  
Washington, DC 20554

In the Matter of )  
Request for Review )  
Of the Decision of )  
The Universal Service Administrator by )

Presbyterian Healthcare Services )

Federal-State Joint Board on Universal Service )

Changes to the Board of Directors )  
Of the National Exchange Carrier )  
Association, Inc. )

File Nos. RHD-10917-1, 10919-1,  
10913-1, 10915-1, 10916-1, 10914-1,  
10918-1

CC Docket No. 96-45

CC Docket No. 97-21 ✓

### I. ORDER

**Adopted: May 22, 2000**

**Released: May 23, 2000**

By the Common Carrier Bureau:

1. The Common Carrier Bureau has under consideration a Letter of Appeal filed by Presbyterian Healthcare Services of New Mexico, on behalf of seven members of its consortium (PHS), seeking review of a decision issued by the Rural Health Care Division (RHCD) of the Universal Service Administrative Company (USAC or Administrator).<sup>1</sup> The seven members of the PHS consortium are Espanola Hospital, Lincoln County Medical Center, PRMG – Clovis, Moreno Valley clinic, Socorro General Hospital, Dan C. Trigg Hospital, and Artesia General Hospital. RHCD denied their applications for benefits from the universal service support mechanism for rural health care providers because they failed to comply with the Commission's competitive bidding requirement. For the reasons set forth below, we deny PHS' appeal and affirm RHCD's denial of the applications of the seven members.

2. In an effort to ensure that universal service funds support services that satisfy the precise needs of an institution, and that the services are provided at competitive rates, the Commission requires each rural health care provider to participate in a competitive bidding

<sup>1</sup> Letter to the Office of the Secretary, Federal Communications Commission, from Joseph J. Montoya, Presbyterian Healthcare Services, filed December 17, 1999 (Letter of Appeal).

process.<sup>2</sup> Specifically, the Commission's rules require a rural health care provider to submit an application to the Administrator<sup>3</sup> that includes a description of the services for which the rural health care provider is seeking support.<sup>4</sup> The Administrator must post this information on its web site, and the rural health care provider must wait at least 28 days from the date on which its information is posted before making commitments with the selected telecommunications carrier(s).<sup>5</sup>

3. On June 9, 1998, RHCD received PHS' initial applications to participate in the rural health care support mechanism for the first funding year.<sup>6</sup> RHCD posted these applications on its web site on June 18, 1998.<sup>7</sup> Because a rural health care provider must wait at least 28 days from the date on which its information is posted before making commitments with the selected telecommunications carrier, PHS was prohibited from selecting a carrier on or before July 16, 1998. On July 6, 1998, RHCD received from PHS its "Health Care Providers Universal Service Services Ordered and Certification Forms" (FCC Forms 466). Each of these FCC Forms 466 identifies the selected telecommunications carrier as US WEST. Each of these FCC Forms 466 also bears a signature date of July 1, 1998. Based upon the information received from PHS, RHCD concluded that PHS improperly selected a carrier before the 28-day waiting period had expired.<sup>8</sup> Accordingly, on November 19, 1999, RHCD sent letters to PHS denying the applications.

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<sup>2</sup> *Federal-State Joint Board on Universal Service, Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charge*, CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 95-72, Fourth Order on Reconsideration, 13 FCC Rcd 5318, 5446 at para. 219 (1997) (*Fourth Reconsideration Order*).

<sup>3</sup> The Commission appointed USAC to administer the universal service support mechanism for rural health care providers. *Changes to the Board of Directors of the National Exchange Carrier Association, Inc. and Federal-State Joint Board on Universal Service*, CC Docket Nos. 97-21 and 96-45, Second Report and Order and Second Order on Reconsideration, 12 FCC Rcd 18400 (1997) (*NECA Order*). In the *USAC Reorganization Order* released on November 20, 1998, the Commission directed USAC to assume responsibility for the schools and libraries support mechanism and the rural health care support mechanism effective January 1, 1999. See *Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service*, CC Docket Nos. 96-45, 97-21, Third Report and Order and Fourth Order on Reconsideration, and Eighth Order on Reconsideration, 13 FCC Rcd 25058 (1998) (*USAC Reorganization Order*). The Schools and Libraries Corporation (SLC) and the Rural Health Care Corporation (RHCC) previously administered these programs, respectively, and have since been merged into USAC in accordance with the *USAC Reorganization Order*.

<sup>4</sup> 47 C.F.R. § 54.603.

<sup>5</sup> *Id.*

<sup>6</sup> For simplicity, this order uses the term "RHCD," although at the time the application was filed the entity was "RHCC." The first funding year for the rural health care support mechanism covered the period from January 1, 1998 through June 30, 1999. *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Ninth Order on Reconsideration, 14 FCC Rcd 377 (1998) (*Ninth Order on Reconsideration*).

<sup>7</sup> Letters to Joseph J. Montoya, Presbyterian Healthcare Services, from Universal Service Administrative Company, Rural Health Care Division, dated November 19, 1999 (Funding Denial Letters).

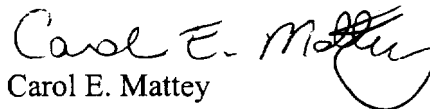
<sup>8</sup> Funding Denial Letters at 1.

4. PHS responded with the subject Letter of Appeal to the Commission, which appears to argue that PHS did not violate the Commission's competitive bidding requirement because PHS selected the telecommunications carrier to provide the services well after the 28-day posting period expired on July 16, 1998. Specifically, PHS contends that it entered into contracts with US WEST on November 1, 1998.<sup>9</sup> PHS bases its argument on documents that it presented, for the first time, as attachments to the Letter of Appeal to the Commission. The documents appear to be parts of customer service records. They contain account activity information, such as service names and dates ranging from September 1995 through November 1998.

5. We have reviewed the Letter of Appeal and its attachments, the PHS applications, and RHCD's records relating thereto. Based on the record before us, we conclude that RHCD properly determined that PHS violated the Commission's competitive bidding rules. PHS submitted to RHCD signed FCC Forms 466 identifying US WEST as its telecommunications carrier on July 6, 1998, which is a date that precedes the expiration date of the 28-day posting Period (July 16, 1998). For this reason, we also reject the argument that the reference to November 1, 1998, in the attachments, reflects the date that PHS selected the carrier. Consequently, we conclude that PHS violated the Commission's competitive bidding rules, and that RHCD properly denied the PHS applications.

6. ACCORDINGLY, IT IS ORDERED, pursuant to the authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the appeal filed on December 17, 1999 by Presbyterian Healthcare Services on behalf of Espanola Hospital, Lincoln County Medical Center, PRMG – Clovis, Moreno Valley clinic, Socorro General Hospital, Dan C. Trigg Hospital, and Artesia General Hospital IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Carol E. Matthey  
Deputy Chief, Common Carrier Bureau

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<sup>9</sup> Letter of Appeal at 1.